



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
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TECHNICAL STAFF REPORT

*Petition Accepted on July 23, 2007
Planning Board Meeting of August 9, 2007
County Council Hearing to be scheduled*

Case No./Petitioner: ZRA-90 – Marsha S. McLaughlin, Director, Department of Planning and Zoning

Request: To amend Section 103.A to add a new definition for the term “Housing Commission Housing Development”. To amend the commercial and industrial districts, the multi-use district of the PGCC District, and the TNC District to add Housing Commission Housing Developments as a use permitted as a matter of right. To amend the Section 128 Supplementary Zoning District Regulations to add a new Section 128.K. concerning the criteria for Housing Commission Housing Developments. To amend Section 127.C, Section 127.5.E, and Section 127.6.F. to delete the requirement of making moderate income housing units first available to certain qualifying persons prior to the general public. To amend Section 127.1.E. to make a clarification concerning assisted living and nursing home beds in relation to the Moderate Income Housing Unit requirement.

Department of Planning and Zoning Recommendation:

APPROVAL

I. DESCRIPTION OF PROPOSAL

- **The Petitioner proposes several amendments to the Zoning Regulations. These proposed amendments are generally described as follows:**
 1. Section 103.A. is proposed to be amended to establish a new Section 103.A.78. definition for the term “Housing Commission Housing Developments” as a new type of zoning use category.
 2. Amendments are proposed to Section 113.3.C. of the I (Institutional) Overlay District; Section 114.2.B of the HO (Historic: Office) District; Section 114.3.B. of the HC (Historic: Commercial) District; Section 115.B. of the POR (Planned Office Research) District; Section 116.B. of the PEC (Planned Employment Center) District; Section 117.2.C. of the CC (Convenience Center) District; Section 118.B. of the B-1 (Business: Local) District; Section 119.B. of the B-2 (Business: General) District; Section 120.B. of the SC (Shopping Center) District; Section 122.B. of the M-1 (Manufacturing: Light) District; Section 123.B. of the M-2 (Manufacturing: Heavy) District; Section 126.B.2. of the PGCC (Planned Golf Course Community) District; Section 127.2.B. of the CE (Corridor Employment) District; and Section 127.6.C. of the TNC (Traditional Neighborhood Center) Overlay District to add Housing Commission Housing Developments as a use permitted as a matter of right, subject to certain criteria in Section 128.

I. DESCRIPTION OF PROPOSAL (continued)

3. Section 128 of the Supplementary Zoning District Regulations is proposed to be amended to establish a new Section 128.K. for Housing Commission Housing Developments to specify the bulk regulations and other criteria to be applied to such developments when located in a non-residential district, the multi-use district of the PGCC District, or the TNC District.
4. In Section 127.C.6.b.(4) of the MXD District regulations, Section 127.5.E.3.e.(3) of the CAC District regulations, and Section 127.6.F.3.f. of the TNC District regulations there are currently requirements concerning Moderate Income Housing Units (“MIHU”) whereby the to-be-provided MIHU must be made available first to defined individuals before they are made available to the general public (“MIHU Preferments”). It has been determined that the administration of MIHU distribution is more appropriately a function of the Department of Housing and Community Development regulations than the Zoning Regulations, so each of these sections is proposed to be deleted.
5. Section 127.1.E.1. of the PSC District concerns the maximum density permitted in a Planned Senior Community development, and it specifies one maximum density factor if a certain percentage of MIHU are provided in the project, and a higher maximum density factor if a higher number of MIHU are provided. In PSC developments which may have an assisted living use or a nursing home use, the assisted living or nursing home beds are also factored into the maximum density calculation at the rate of four such beds equaling one density unit. This relating of beds to maximum density has generated some confusion because it is unclear whether assisted living beds and nursing home beds also have a MIHU requirement. A MIHU requirement was never intended for assisted living beds or nursing home beds, so Section 127.1.E.1.c. is proposed to be amended to add text explicitly stating this.

- **This Zoning Regulation Amendment is one component of a legislative package that also will include revisions to the Housing Code. One intent is to shift some MIHU provisions from the Zoning Regulations to the Housing Code so as to more properly reflect the appropriate Department of Housing and Community Development responsibilities, and to clarify the PSC District MIHU requirements as noted above.**
- **The subsections proposed to be amended and the amendment text is attached as Exhibit A, regarding the Housing Commission Housing Developments amendments, and Exhibit B, regarding the amendments associated with the MIHU requirements. (CAPITALS indicates text to be added; text in [[brackets]] indicates text to be deleted):**

II. EXISTING REGULATIONS

- **The Housing Commission Housing Development use category would be an entirely new use category, so there are no existing regulations directly related to such a use. The most similar existing use category is “Government structures, facilities and uses”, which is a category permitted as a matter of right in all zoning districts.**

II. EXISTING REGULATIONS (continued)

- **The MIHU Preferment provisions were first established as amendments to the MXD and CAC District regulations in Zoning Regulation Amendment Case No. ZRA-49, which became effective in September, 2004.**

The reason for the amendments was "...to expand the MIHU program preferences given to Howard County firefighters, police officers, and teachers to allow all income-eligible county government employees to be included in the consideration for the preference."

Later, a similar MIHU Preferment provision was proposed in the new TNC District regulations of the 2005 Continuation of the Comprehensive Zoning Process ("Comp Lite"), which eventually became effective in July, 2006.

- **The requirement that assisted living beds and nursing home beds be factored into the maximum density calculation was first established in the initial PSC District regulations, which were proposed as part of Zoning Regulation Amendment Case No. ZRA-30, which became effective in July, 2001.**

III. BACKGROUND INFORMATION

A. Scope of Proposed Amendments

- **The Housing Commission Housing Developments requirements in the new Section 128.K would only be applicable in the I, HO, HC, POR, PEC, CC, B-1, B-2, SC, M-1, M-2, PGCC, CE, and TNC Districts in which the use is established as a permitted use.**
- **Although the clarification statement concerning the density calculation for assisted living beds and nursing home beds is not a type of new requirement, technically it would only apply to Planned Senior Community developments that include an assisted living or nursing home component.**

IV. EVALUATIONS AND CONCLUSIONS

A. Relation to the General Plan

- **The amendments are in harmony with the Balanced and Phased Growth Policy No. 4.2 to "Provide affordable housing for existing low and moderate income residents and for the diverse labor force needed for continuing economic growth."**

If approved, the amendments of Exhibit A will expand the opportunities available to the Department of Housing and Community Development to establish affordable housing options throughout the County.

A. Relation to the General Plan (continued)

- By increasing the potential for Housing Commission developments such as age-restricted adult housing in many different zoning districts, the amendments are also in harmony with the Balanced and Phased Growth Policy No. 4.3 to “Ensure an adequate housing supply for the elderly, disabled and special populations.”
- The multiple commercial, industrial, and other zoning districts in which the Housing Commission Housing Development use category is proposed to be permitted are predominantly located in the eastern areas of the County, in relatively close proximity to many types of employment uses.

This promotes the Balanced and Phased Growth action of Employment-Related Housing Needs to “Provide housing opportunities so that people who work in the County may live near employment areas”, and is therefore in harmony with the Balanced and Phased Growth Policy No. 4.5 to “Encourage economic growth, provide job opportunities for County residents and ensure the County’s fiscal health.

A related issue, even though it may involve employment outside the County, is that the eastern areas of the County are also reasonably close to Fort Meade, which will be generating a substantial number of new jobs in the region due to the Federal Base Realignment and Closure (“BRAC”) related expansions.

B. Relation to the Zoning Regulations

- The amendments are in harmony with the Legislative Intent statement in Section 100.A.5. “To provide for adequate housing choices in a suitable living environment within the economic reach of all citizens.”

V. RECOMMENDATION: *APPROVAL*

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA- 90 be APPROVED.

Marsha S. McLaughlin 07/26/07
Marsha S. McLaughlin, Director Date

MM/JRL/jrl

NOTE: The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.

ZRA-90 – Exhibit A

Howard County Zoning Regulations.

Section 103.A. Definitions.

78. HOUSING COMMISSION HOUSING DEVELOPMENT: A HOUSING DEVELOPMENT AS DEFINED IN SECTION 13.303 OF THE HOWARD COUNTY CODE THAT IS EITHER (1) WHOLLY OWNED BY THE HOWARD COUNTY HOUSING COMMISSION, OR (2) OWNED BY A LIMITED PARTNERSHIP OR LIMITED LIABILITY COMPANY FORMED SOLELY FOR THE PURPOSE OF OBTAINING THE BENEFIT OF FEDERAL LOW INCOME HOUSING TAX CREDITS UNDER SECTION 42 OF THE INTERNAL REVENUE CODE AND IN WHICH THE COMMISSION IS THE GENERAL PARTNER OR MANAGING MEMBER.

Renumber the remainder of Subsection A accordingly.

Section 113.3.I. (Institutional) Overlay District.

C. Uses Permitted as a Matter of Right

5. HOUSING COMMISSION HOUSING DEVELOPMENTS, SUBJECT TO THE REQUIREMENTS OF SECTION 128.K.

Renumber the remainder of Subsection C accordingly.

Section 114.2. HO (Historic: Office) District.

B. Uses Permitted as a Matter of Right

12. HOUSING COMMISSION HOUSING DEVELOPMENTS, SUBJECT TO THE REQUIREMENTS OF SECTION 128.K.

Renumber the remainder of Subsection B accordingly.

Section 114.3. HC (Historic: Commercial) District.

B. Uses Permitted as a Matter of Right

23. HOUSING COMMISSION HOUSING DEVELOPMENTS, SUBJECT TO THE REQUIREMENTS OF SECTION 128.K.

Renumber the remainder of Subsection B accordingly.

Section 115. POR (Planned Office Research) District.

B. Uses Permitted as a Matter of Right

25. HOUSING COMMISSION HOUSING DEVELOPMENTS, SUBJECT TO THE REQUIREMENTS OF SECTION 128.K.

Renumber the remainder of Subsection B accordingly.

Section 116. PEC (Planned Employment Center) District.

B. Uses Permitted as a Matter of Right

21. HOUSING COMMISSION HOUSING DEVELOPMENTS, SUBJECT TO THE REQUIREMENTS OF SECTION 128.K.

Renumber the remainder of Subsection B accordingly.

Section 117.2. CC (Convenience Center) District.

C. Uses Permitted as a Matter of Right

8. HOUSING COMMISSION HOUSING DEVELOPMENTS, SUBJECT TO THE REQUIREMENTS OF SECTION 128.K.

Renumber the remainder of Subsection C accordingly.

Section 118. B-1 (Business: Local) District.

B. Uses Permitted as a Matter of Right

29. HOUSING COMMISSION HOUSING DEVELOPMENTS, SUBJECT TO THE REQUIREMENTS OF SECTION 128.K.

Renumber the remainder of Subsection B accordingly.

Section 119. B-2 (Business: General) District.

B. Uses Permitted as a Matter of Right

47. HOUSING COMMISSION HOUSING DEVELOPMENTS, SUBJECT TO THE REQUIREMENTS OF SECTION 128.K.

Renumber the remainder of Subsection B accordingly.

Section 120. SC (Shopping Center) District.

B. Uses Permitted as a Matter of Right

30. HOUSING COMMISSION HOUSING DEVELOPMENTS, SUBJECT TO THE REQUIREMENTS OF SECTION 128.K.

Renumber the remainder of Subsection B accordingly.

Section 122. M-1 (Manufacturing: Light) District.

B. Uses Permitted as a Matter of Right

27. HOUSING COMMISSION HOUSING DEVELOPMENTS, SUBJECT TO THE REQUIREMENTS OF SECTION 128.K.

Renumber the remainder of Subsection B accordingly.

Section 123. M-2 (Manufacturing: Heavy) District.

B. Uses Permitted as a Matter of Right

4. HOUSING COMMISSION HOUSING DEVELOPMENTS, SUBJECT TO THE REQUIREMENTS OF SECTION 128.K.

Renumber the remainder of Subsection B accordingly.

Section 126. PGCC (Planned Golf Course Community) District.

B. Uses Permitted as a Matter of Right

There shall be two subdistricts in the PGCC District: The PGCC-1 or Residential Subdistrict and the PGCC-2 or Multi-use Subdistrict. Delineation of the subdistrict boundaries shall be determined by the Zoning Board and shall be shown on the zoning map of Howard County.

2. Multi-use Subdistrict

The following uses shall be permitted only in the Multi-use Subdistrict.

- S. HOUSING COMMISSION HOUSING DEVELOPMENTS, SUBJECT TO THE REQUIREMENTS OF SECTION 128.K.

Renumber the remainder of Paragraph 2 accordingly.

Section 127.2. CE (Corridor Employment) District.

B. Uses Permitted as a Matter of Right

14. HOUSING COMMISSION HOUSING DEVELOPMENTS, SUBJECT TO THE REQUIREMENTS OF SECTION 128.K.

Renumber the remainder of Subsection B accordingly.

Section 127.6. TNC (Traditional Neighborhood Center) Overlay District.

C. Uses Permitted as a Matter of Right

25. HOUSING COMMISSION HOUSING DEVELOPMENTS, SUBJECT TO THE REQUIREMENTS OF SECTION 128.K.

Renumber the remainder of Subsection B accordingly.

New Section 128.K Supplementary Zoning District Regulations.

K. HOUSING COMMISSION HOUSING DEVELOPMENTS

1. A HOUSING COMMISSION HOUSING DEVELOPMENT LOCATED IN A NON-RESIDENTIAL ZONE, A MULTI-USE DISTRICT OF THE PGCC ZONE, OR THE TNC ZONE SHALL MEET THE FOLLOWING REQUIREMENTS:

A. MAXIMUM HEIGHT LIMITATIONS:

- (1) STRUCTURE WITH MINIMUM
SETBACK..... 50 FEET
- (2) STRUCTURE WITH AN ADDITIONAL 1 FOOT IN HEIGHT FOR
EVERY 2 FEET OF SETBACK ABOVE THE MINIMUM
.....80 FEET

**B. MINIMUM DISTRICT SIZE, NOT TO PROHIBIT THE SALE OR LEASE OF
LOTS THEREIN.....2 ACRES**

C. MINIMUM STRUCTURE OR USE SETBACK:

- (1) FROM RESIDENTIAL DISTRICTS OR USES.....75 FEET
EXCEPT FROM R-SA-8 OR R-A-15..... 50 FEET
- (2) FROM ANY OTHER ZONING DISTRICT..... 25 FEET
- (3) FROM ADJOINING OPEN SPACE..... 35 FEET

- (4) FROM PUBLIC STREET RIGHT-OF-WAY.....30 FEET
- (5) IF A RESIDENTIAL DISTRICT IS SEPARATED BY A PUBLIC STREET RIGHT-OF-WAY FROM A DISTRICT WHERE A HOUSING DEVELOPMENT IS A PERMITTED USE, ONLY THE SETBACK FROM THE PUBLIC STREET RIGHT OF WAY SHALL APPLY.

D. MINIMUM DISTANCES BETWEEN BUILDINGS FOR ATTACHED AND APARTMENT UNITS

- (1) FACE TO FACE.....30 FEET
- (2) FACE TO SIDE/REAR TO SIDE.....20 FEET
- (3) SIDE TO SIDE.....15 FEET
- (4) REAR TO REAR.....50 FEET
- (5) REAR TO FACE.....75 FEET

E. AGE-RESTRICTED ADULT HOUSING SHALL COMPLY WITH UNIVERSAL DESIGN REQUIREMENTS OF SECTION 115.E.1 OF THE ZONING REGULATIONS.

F. SHALL PROVIDE PERIMETER BUFFERING ALONG ADJACENT RESIDENTIAL ZONING DISTRICT THROUGH THE RETENTION OR PLANTING OF FOREST OR PROVIDING A TYPE C LANDSCAPE BUFFER

G. SHALL PROVIDE A MINIMUM OF 25% OF THE GROSS ACREAGE FOR PASSIVE, RECREATIONAL AND/OR AMENITY OPEN SPACE IN PROXIMITY TO THE RESIDENTIAL UNITS.

ZRA-90 - Exhibit B

Text to be added is shown in CAPITALS. Text to be deleted is shown between [[double brackets]].

1. Delete Section 127.C.6.b.(4) in the MXD District regulations.

b. Moderate Income Housing

- (1) If the allowed residential density established by a Preliminary Development Plan exceeds 2.3 dwelling units per gross acre of the Mixed Use Development or if a provision of moderate income housing is proffered by the Petitioner and made a condition of approval in a Preliminary Development Plan approval by the Zoning Board, then the development shall include moderate income housing units.
- (2) Except as units are proffered as provided in Section 127.C.6.b(1), moderate income housing units shall be provided in the amounts indicated below:

<u>Dwelling Units Per Gross Acre of the Mixed Use Development</u>	<u>Minimum Percentage of Moderate Income Housing Units</u>
More than 2.3 but no more than 2.7	5% of total number of dwelling units
More than 2.7	10% of total number of dwelling units

- (3) When moderate income housing units are proffered as noted above in Section 127.C.6.b(1), the proffered number of units shall be provided.
- [[(4) The moderate income housing units in the MXD district are to be made available to the following individuals prior to making them available to the general public:
 - (a) employees of the development; and
 - (b) All income-eligible Howard County employees and employees of the Howard County Board of Education.These individuals must also meet the qualifications of the MIHU program as established in Section 13.400 of the Howard County Code.]]

2. Add clarifying text to Section 127.1.E.1.c. in the PSC District regulations.

E. Bulk Regulations

1. Maximum Density
 - a. Developments providing at least 10 percent of the dwelling units as moderate income housing units.....8 dwelling units per net acre.
 - b. Developments providing an additional 33 percent of all units over 8 dwelling units per net acre as moderate income housing units.....12 dwelling units per net acre.
 - c. Assisted living and nursing home beds shall be included in density calculations. One bed equals 0.25 dwelling units FOR THE PURPOSE OF DETERMINING DENSITY ONLY. ASSISTED LIVING AND NURSING HOME BEDS ARE NOT SUBJECT TO MIHU REQUIREMENTS.

3. Delete Section 127.5.E.3.e.(3): in the CAC District regulations.

- e. Moderate income housing
 - (1) At least 15 percent of the dwelling units shall be moderate income housing units, except that
 - (2) At least 25 percent of the dwelling units shall be moderate income housing units if the CAC Development requires closing of a mobile home park existing on the property when CAC rezoning occurs
 - [(3) The moderate income housing units in the CAC district are to be made available to the following individuals prior to making them available to the general public:
 - (a) Employees of the development;
 - (b) All income-eligible Howard County employees and employees of the Howard County Board of Education
 - (c) Residents that are dislocated by Route 1 redevelopment projects

These individuals must also meet the qualifications of the MIHU program as established in 13.400 of the Howard Code.]]

4. Delete Section 127.6.F.3.f.: in the TNC District regulations.

- [[f. The moderate income housing units in the TNC district are to be made available to the following individuals prior to making them available to the general public:
 - (1) Employees of the development;
 - (2) Howard County employees; and
 - (3) Residents that are dislocated by Route 40 or Route 1 redevelopment projects

These individuals must also meet the qualifications of the MIHU program as established in Section 13.400 of the Howard Code.]]